



Council Ward: Ward 2

Evaluation Prepared by: Patti Hart

Applicant: Del Taco LLC
25521 Commercentre Dr., #200
Lake Forest, CA 92630

Owner: Gulfstream Retail, LLC

Parcel #: 15N12 173D

Location: 9775 Hwy 92

Area: +/-0 .93ac.

Request: Variance from LDO Sec. 7.723

Proposed Use/

Purpose: Del Taco –Restaurant with Drive Thru

Current Zoning: DT-GC (Downtown General Commercial)

Current Land Use: Vacant – Previously developed and used as Wendy’s restaurant.

Future Land Use: CVC Community Village Center

Surrounding Properties:

Current Zoning		Current Land Use
North	DT-GC	Undeveloped (flood zone)
East	DT-GC	Retail (Auto Zone)
South	DT-GC	Restaurant/ Office (Chick Fil-A/Medical Office))
West	DT-GC	Gas Station (QT)

Input Meeting: May 1, 2013

DPC Meeting: May 8, 2013 @ 11:00 AM

PC Meeting: June 6, 2013 @ 7:00 PM

Council Meeting: June 17, 2013 @ 7:00 PM

Executive Summary:

The subject property was developed for the previous use (Wendy's) under General Commercial zoning and rezoned to DT-GC in 2005 with the Downtown Masterplan. The building has been vacant since 2012. Section 7.723 of the Land Development Ordinance requires a Code Compliance Certificate be issued in accordance with the DTMP, which requires the entire site to be brought into compliance with the zoning if any structural changes or modifications are being made to the building. Del Taco is proposing a remodel of the existing location, but does not wish to redevelop the entire site under the DTMP which would include relocating the building up to the street front which would interrupt the cross access drive aisle from the Highway 92 entrance to the commercial property to the east.

The applicant is also asking for consideration of a variance to use the existing non-conforming sign instead of replacing it with an 8 foot monument sign currently permitted by code. Face Changes (in-kind panel changes) are currently permitted under LDO Sec. 6.652. Although staff typically looks for opportunities to bring signage further into compliance in the Hwy 92 corridor, line of sight limitations exist due to topography and plantings. The existing monument signage is similar in size and construction to the signs for abutting properties to the east and west.

	Ordinance Requirement	Proposed	Compliance
Min Lot Area	600 Sq Ft	4,640 Sq Ft	Yes
Min Lot Width	20 ft	160 ft	Yes
Street Façade Frontage	60%	N/A	No
Setback	rear 20/ side 0	20/10	Yes
7.506 Drive thru	Not visible from public street	Visible Side Window	No
Parking	20 spaces	32 spaces (Exceeds max)	No

Zoning History:

This property was rezoned from GC to DT-GC on July 14, 2005, with the adoption of the Downtown Masterplan. There is no record of subsequent rezoning or variance activity found to be associated with this property.

Criteria for Consideration of a Variance Request:

Woodstock LDO Section 10.160- Variances, provides the following criteria which must be considered as the Planning Commission and City Council review variance requests:

(a) There are exceptional and extraordinary conditions pertaining to the particular piece of property in question, due to its size, shape or topography.

The topography presents exceptional or extraordinary conditions pertaining to this particular piece of property in regard to visibility of the building and existing signage. Since the property is significantly lower than the properties and Highway 92 travel lanes to the east, a freestanding sign which conforms to the required eight foot height requirement would not be visible to Highway 92 west bound traffic.

(b) The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship.

In order to make a façade change the code requires the existing building to be brought fully into compliance with the downtown code. This would create an unnecessary hardship for the applicant in that the building would need to be relocated to the street front. Compliance with the code in this case would cause the building to be moved to the front of the parcel which would block the sole vehicular access from Hwy 92 to the parcel to the east.

(c) Such conditions are peculiar to the particular piece of property involved.

Staff is not aware of other such cases until they come forward with a request, however, with such a large master plan it is possible that other properties seeking to make improvements to their aging facades may warrant variance from the Code Compliance Certificate as well. Variances are considered based on conditions unique to the individual property.

(d) A literal interpretation of this ordinance would deprive the applicants of any rights that others in the same district are allowed.

A literal interpretation of this ordinance provides for the application for variance from the Code Compliance Certificate for all properties in this district. Variances are granted based on conditions unique to each individual property.

(e) Relief, if granted, would not cause substantial detriment to the public good, or impair the purposes and intent of this ordinance.

Relief would not cause any detriment to the public good, and would serve to improve a blighted building in the Hwy 92 corridor.

Special circumstances or conditions applying to the building or land or building and land in question are peculiar to such premises and do not apply generally to other land or buildings in the vicinity.

Compliance with the code in this case would cause the building to be moved to the front of the parcel which would block the sole vehicular access from Hwy 92 to the parcel to the east.

- (f) Granting of the application is necessary for the preservation and enjoyment of a property right and not merely to serve as a convenience to the applicant.**

The granting of the application will preserve the applicant's right to make façade improvements to an otherwise structurally sound building without unreasonably requiring the building to be demolished and moved to the street frontage as required by code.

- (g) The condition from which relief or a variance is sought did not result from willful action by the applicant.**

The condition from which relief is sought resulted from the implementation of the 2005 Downtown Master Plan and not from willful action by the applicant.

- (h) Authorizing of the variance will not impair adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.**

The building was built and has historically been used as a restaurant with a drive thru. The use is not changing and there have been no significant changes proposed to the height or overall footprint of the building; therefore, authorizing this variance will not impair adequate supply of light and air to adjacent property or unreasonably increase the congestion of public streets, increase the danger of fire, imperil the public safety, unreasonably diminish or impair established property values within the surrounding areas or in any other respect impair the health, safety, comfort, morals or general welfare of the inhabitants of the City.

Recommendation:

At the May 8, 2013, meeting the Development Process Committee voted unanimously to recommend approval of the applicants request V#013-13 for variance from LDO Sec. 7.723 to waive the Code Compliance Certificate as following:

- 1) A Variance shall be granted to LDO Sec 7.723 to waive the requirement for Code Compliance Certificate; development shall be substantially similar to the architectural site plan by GHA Architecture submitted with application V#113-13.

Attachments:

- Zoning Map
- Site Photos
- Application and Applicant Response
- Site Plan

ZONING MAP

Aerial Photo:



.....➡ Drive aisle access from Hwy 92 to parcel 15N12 173E

○ Existing Monument Sign Location

Existing Monument Sign East Bound





West Bound

